

**FILED**

**NOV 26 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GONZALO RIVAS-MORA,

Defendant - Appellant.

No. 07-50011

D.C. No. CR-06-02069-LAB

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Southern District of California  
Larry A. Burns, District Judge, Presiding

Submitted November 13, 2007<sup>\*\*</sup>

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Gonzalo Rivas-Mora appeals from the 18-month sentence imposed following his conviction for bringing in illegal aliens without presentation, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii).

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Rivas-Mora pleaded guilty pursuant to a written agreement that included an appeal waiver. He contends that the government breached the agreement by stating in its sentencing memorandum that the Sentencing Guidelines calculations in the Presentence Report (“PSR”), which differed from the parties’ stipulated calculations in the agreement, were correct. We disagree. The government fulfilled its obligation to recommend a 13-month sentence, and its notification to the court that the Guidelines calculations in the PSR were correct did not constitute a breach of the plea agreement. *See United States v. Allen*, 434 F.3d 1166, 1175 (9th Cir. 2006); *United States v. Maldonado*, 215 F.3d 1046, 1052 (9th Cir. 2000).

Because the 18-month sentence fell within the terms of the appeal waiver, and Rivas-Mora does not contend that the waiver was not knowing and voluntary, we dismiss in light of the valid appeal waiver. *See United States v. Jeronimo*, 398 F. 3d 1149, 1152-53 (9th Cir. 2005).

**DISMISSED.**